

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JAN 09 2020

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

MITCHELL R. ELFERS
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JODY RUFINO MARTINEZ, a.k.a. "Mono,"

Defendant.

)
)
) CRIMINAL NO. 19-3725 JB
)
) Count 1: 18 U.S.C. § 1959(a)(1): Violent
) Crimes in Aid of Racketeering (Murder)
) and 18 U.S.C. § 2: Aiding and Abetting;
)
) Count 2: 18 U.S.C. § 1962(d):
) Racketeering Conspiracy;
)
) Count 3: 18 U.S.C. § 1512: Witness
) Tampering;
)
) Count 4: 18 U.S.C. §§ 922(g)(1) and
) 924: Felon in Possession of a Firearm
) and Ammunition.

SECOND SUPERSEDING INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONSTHE SYNDICATO DE NUEVO MEXICO GANG

1. At various times relevant to this Indictment, the defendant, **JODY RUFINO MARTINEZ, aka "Mono,"** was a member of the Syndicato de Nuevo Mexico ("SNM") Gang, a criminal organization whose members, prospects, and associates engaged in acts of violence and other criminal activities, including murder, kidnapping, attempted murder, conspiracy to manufacture/distribute narcotics, extortion, and firearms trafficking. At all relevant times, the SNM Gang operated in the District of New Mexico and elsewhere.

2. The SNM Gang, including its leadership, membership, prospects, and associates, constituted an enterprise as defined in Title 18, United States Code, Sections 1959(b)(2) and

1961(4), that is, a group of individuals associated in fact that engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members, prospects and associates functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

GENERAL BACKGROUND

3. The Sindicato de Nuevo Mexico Gang ("SNM"), Spanish for Syndicate of New Mexico, is a powerful and violent prison gang which controls drug distribution and other illegal activities within the New Mexico penal system, and is also involved in street-level narcotics trafficking. It was formed in the early 1980s at the Penitentiary of New Mexico ("PNM") after a prison riot at the penitentiary in February 1980. During the prison riot, twelve correctional officers were taken hostage and several of them were seriously assaulted and raped by inmates. Thirty-three inmates were killed during the riot, and more than two hundred were injured.

4. Following the prison riot, the SNM Gang expanded throughout the New Mexico penal system and has bolstered as many as 500 members since the early 1980s. Currently, the SNM Gang is comprised of at least 200 active members, who are known as "hermanos," "brothers," "carnales," "dons," "jefes," "big hommies," or "Zia manos" and who control the gang. The SNM Gang operated under a "panel" or "tabla" (Spanish for table) of leaders who issued orders to subordinate gang members.

5. Despite being imprisoned and being closely scrutinized by prison officials, SNM Gang leaders managed to convey orders to SNM Gang members and associates throughout the prison system and outside the prison system through a variety of means, including secret notes, called "kites," or "welas," coded letters, and messages conveyed by complicit visitors. When SNM Gang members or associates completed their sentences and rejoined their communities,

they were expected to remain loyal to the SNM Gang and to work to further the goals of the SNM Gang outside the prison environment. Members who fail to show continued loyalty to the gang are disciplined in various ways, to include murder and assaults. One of the significant goals of the SNM Gang is to control and profit from narcotics trafficking.

6. In addition to exerting its control in the New Mexico penal system, the SNM Gang also operated on the streets of New Mexico by intimidating and influencing smaller New Mexico Hispanic gangs for the purpose of establishing a larger network for the SNM's illegal activities. If a gang does not accede to the SNM Gang's demands, the SNM Gang assaults or kills the gang's members who are not in custody as well as those members who are incarcerated within the New Mexico penal system. In addition to intimidation through direct assaults, the SNM Gang is also able to assert control and influence over gang members outside the penal system because gangs do not want their members outside the penal system to be assaulted or killed, and because the gang members know that, if they are incarcerated, they will need the protection of the SNM Gang while they serve their sentences.

7. The SNM Gang has been and continues to be engaged in a fierce and violent war with rival gangs, to include the Barrio Azteca, Los Carnales, and Burqueños gangs. Within the prison system, this rivalry manifested itself in beatings and stabbings, which often result in death. Outside the prison system, the SNM Gang fights for control of territory in which to conduct narcotics trafficking and other crimes, as well as to recruit and influence non-gang members. In addition to fighting for control over numerous illegal activities and using violence and terror for the purpose of enriching themselves, the SNM Gang also engages in violence simply to assert its gang identity, to claim or protect its territory, to challenge or respond to challenges, to retaliate against a rival gang or member, to gain notoriety and show its superiority

over others, and to send a message to others that it is strong, powerful and not to be provoked.

8. The SNM Gang seeks to maintain its reputation for being strong and powerful and maintains its membership to continue functioning as an organization in prison and on the streets. If the SNM Gang is perceived as being weak, then rival gangs can challenge and assault its members and take over its territory. This can cause the gang to lose membership and eventually dissolve. The SNM Gang maintains a large membership and a reputation for being strong, powerful and dominant so that rival gangs will reconsider challenging it and victims/witnesses are less likely to assist authorities with any prosecution attempts against it. This allows the gang to grow in strength, thrive in its criminal activity, and dominate its territory. A member of the SNM Gang is expected to seek out and beat, stab, or shoot rival gang members. Similarly, a member of the SNM Gang is expected to confront and attack any suspected informants, cooperating witnesses, or sex offenders.

9. SNM Gang members identify themselves with the Zia symbol and the letters "SNM" or "S," which represents the "Syndicato de Nuevo Mexico," or "Syndicato" which is Spanish for Syndicate. SNM Gang members also utilize the number "19" which represents the 19th letter of the alphabet, "S," and "505," which corresponds with the area code for the greater Albuquerque area.

10. As with the numbers "19," and "505," the letters "S" or "SNM," the Zia symbol, and the Spanish word "Syndicato" are commonly, but not exclusively, displayed by SNM Gang members in tattoos, graffiti, drawings, and on clothing, as a way of displaying affiliation, loyalty, and commitment to the gang.

11. The SNM Gang claims the entire state of New Mexico as its territory. The state is divided into four geographical "rayos," or regions, with one or more leaders per region. "Rayo"

leaders are responsible for all SNM Gang members and SNM Gang business within that region. Additionally, at various relevant times, each New Mexico Corrections Department ("NMCD") Facility had one or more SNM Gang leaders, referred to as "llaveros," or key holders.

ROLES OF THE MEMBERS AND ASSOCIATES

12. Leaders of the enterprise direct or delegate the power to direct other members of the enterprise to carry out unlawful and other activities in furtherance of the conduct of the enterprise's affairs.

13. Under the direction and leadership of the enterprise, defendant, **JODY RUFINO MARTINEZ, aka "Mono,"** is a member who participated in unlawful and other activities in furtherance of the conduct of the enterprise's affairs.

PURPOSES OF THE SNM GANG

14. The purposes of the SNM Gang enterprise include the following:

- a. Preserving and protecting the power, territory, reputation, and profits of the enterprise through the use of intimidation, violence, threats of violence, assaults, and murder;
- b. Promoting and enhancing the enterprise and the activities of its members and associates through criminal acts, including, but not limited to, murder, attempted murder, drug trafficking, vehicle theft, robberies, and other criminal activities;
- c. Keeping victims, potential victims, witnesses, and community members in fear of the enterprise, its members, and associates through violence and threats of violence;
- d. Protecting the enterprise's members and associates who commit crimes by hindering, obstructing, and preventing law enforcement officers from identifying, apprehending, and prosecuting and punishing the offenders;

e. Providing information to members and associates of the enterprise, including those who are incarcerated, for the purpose of committing acts of violence, robbery, distribution of controlled substances, and other offenses; and

f. Providing financial support and information to SNM Gang members and associates, including those members and associates who are incarcerated.

MEANS AND METHODS OF THE ENTERPRISE

15. Among the means and methods by which the defendant and his associates conducted and participated in the conduct of the affairs of the SNM Gang are the following:

a. Members and associates of the enterprise committed, conspired, attempted, and threatened to commit acts of violence, including murders and assaults to protect and expand the enterprise's criminal operations.

b. To generate income, members and associates of the enterprise trafficked in controlled substances and extorted narcotics traffickers and committed robbery.

c. To perpetuate the enterprise, members and associates of the enterprise discussed the membership, rules, and enforcement of the rules of the SNM Gang; the status of SNM Gang members and associates who were arrested or incarcerated; the discipline of SNM Gang members; SNM Gang members' encounters with law enforcement; the identities of individuals suspected of cooperating with law enforcement and the proposed actions to be taken against them; and plans and agreements regarding the commission of future crimes, including murder, drug distribution, possession of firearms, and assault, as well as ways to conceal these crimes.

d. It is further part of the means and methods of the enterprise that members and associates of the enterprise conceal from law enforcement the way in which the enterprise

conducts its affairs; the locations where enterprise members and associates discuss and conduct the affairs of the enterprise; the locations where enterprise members store and possess weapons and narcotics; and the locations where enterprise members maintain the proceeds from narcotics trafficking.

e. Members and associates of the SNM Gang also use violence to impose discipline within the SNM Gang. It is further part of the means and methods of the enterprise that members and associates of the SNM Gang agree to distribute narcotics and commit other crimes, and to conceal their criminal activities by obstructing justice, threatening and intimidating witnesses, and other means.

Count 1

Murder of D.R.

Paragraphs one through fifteen of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

The SNM gang enterprise, through its members and associates, engaged in racketeering activity as defined in 18 U.S.C. §§ 1959(b)(1) and 1961(1), that is acts and threats involving murder, robbery and extortion in violation of New Mexico law, acts indictable under 18 U.S.C. §§ 1503, 1512 and 1513 involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, and offenses involving trafficking in narcotics in violation of 21 U.S.C. §§ 841 and 846.

On or about December 5, 2008, in Rio Arriba County, in the District of New Mexico, as consideration for the receipt of, and as consideration for a promise and agreement to pay, anything of pecuniary value from the Sindicato de Nuevo Mexico Gang (SNM), and for the purpose of gaining entrance to and maintaining and increasing position in the Sindicato de

Nuevo Mexico Gang (SNM), an enterprise engaged in racketeering activity, the defendant, **JODY RUFINO MARTINEZ, a.k.a. "Mono,"** did unlawfully, knowingly, and intentionally murder D.R., in violation of NMSA 1978, Sections 30-2-1 and 30-1-13.

All in violation of 18 U.S.C. §§ 1959(a)(1) and 2.

Notice of Special Findings

The grand jury repeats and re-alleges the accusations of Count 1 of the Second Superseding Indictment.

With respect to Count 1, the Grand Jury makes the following special findings that the defendant, **JODY RUFINO MARTINEZ:**

- a. was 18 years of age or older at the time of the offense charged in Count 1 (18 U.S.C. § 3591(a));
- b. intentionally killed D.R. (18 U.S.C. § 3591(a)(2)(A));
- c. intentionally inflicted serious bodily injury that resulted in the death of D.R. (18 U.S.C. § 3591 (a)(2)(B));
- d. has a previous conviction for a violent felony involving firearms (18 U.S.C. § 3592(c)(2));
- e. has previous convictions of other serious offenses (18 U.S.C. § 3592(c)(4));
- f. committed the offense after substantial planning and premeditation to cause the death of D.R. (18 U.S.C. § 3592(c)(9)).

Count 2

The Racketeering Conspiracy

Paragraphs one through fifteen of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

Beginning on or about 1980 and continuing through the present, in the District of New Mexico and elsewhere, the defendant, **JODY RUFINO MARTINEZ, aka "Mono,"** together with others known and unknown to the Grand Jury, each being a person employed by and associated with the SNM Gang, an enterprise engaged in, and the activities of which affect, interstate and foreign commerce, unlawfully, knowingly, and intentionally did conspire to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the SNM Gang enterprise through a pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and (5), which pattern of racketeering activity consisted of:

- a. Multiple acts involving:
 - i. murder in violation of NMSA 1978, Sections 30-2-1, 30-1-13, 30-28-1, 30-28-2 and 30-28-3;
 - ii. robbery, in violation of NMSA 1978, Sections 30-16-2, 30-1-13, 30-28-1, 30-28-2 and 30-28-3;
 - iii. extortion, in violation of NMSA 1978, Sections 30-16-9, 30-1-13, 30-28-1, 30-28-2 and 30-28-3;
- b. Multiple acts involving trafficking in controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and 846; and
- c. Multiple acts indictable under:
 - i. Title 18, United States Code, Section 1512 (relating to tampering with a witness, victim, or an informant);
 - ii. Title 18, United States Code, Section 1513 (relating to retaliating against a witness, victim or an informant); and

iii. Title 18, United States Code, Section 1503 (relating to obstruction of justice).

It was part of the conspiracy that the defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish the goals of the conspiracy, the defendant, **JODY RUFINO MARTINEZ, aka "Mono,"** and others known and unknown to the Grand Jury, committed various overt acts, on or about the following times and dates, in the District of New Mexico, and elsewhere, including but not limited to the following:

Overt Act 1

In 1980, a group of inmates at the Penitentiary of New Mexico formed the SNM Gang.

Overt Act 2

Beginning in the 1980s, the SNM Gang designated the prison gangs, Los Carnales and the Norteños, as their rivals and issued orders to SNM Gang members to assault their rivals whenever possible.

Overt Act 3

Beginning in the 1980s and continuing up to the present time, the SNM Gang established a hierarchy within the gang, rules, and procedures, and recruited street gang members and inmates from around New Mexico to commit and aid in the commission of robberies; burglaries; assaults; kidnappings; murders; drug trafficking; drug manufacturing; and the intimidation of witnesses, informants, and rivals; to strengthen and propagate the SNM Gang.

Overt Act 4

On or about June 1998, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** was recruited and joined the SNM Gang in Milan, New Mexico.

Overt Act 5

On or about December 22, 1998, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** admitted his SNM Gang membership to NMCD officials and claimed he was a Soldier within the SNM.

Overt Act 6

On or about December 22, 1998, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** possessed an SNM tattoo of a Zia symbol with "SNM" in the middle.

Overt Act 7

On or about April 1, 1999, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** possessed a drawing with "SNM" and "S" on it.

Overt Act 8

On or about April 1, 1999, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** possessed names and addresses of SNM members and associates and an amnesty agreement between the Barrio Azteca Gang and SNM Gang.

Overt Act 9

On or about October 31, 1999, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** battered a corrections officer.

Overt Act 10

On or about March 12, 2008, **JODY RUFINO MARTINEZ** attempted to commit a robbery with another SNM Gang member and another individual affiliated with a street gang.

Overt Act 11

On or about December 5, 2008, **JODY RUFINO MARTINEZ** killed D.R. for failing to deliver drugs to an SNM gang member.

Overt Act 12

On or about June 12, 2015, **JODY RUFINO MARTINEZ** possessed a handgun, heroin, and methamphetamine.

Overt Act 13

On or about November 5, 2016, while incarcerated in the NMCD, **JODY RUFINO MARTINEZ** and J.M., another SNM member, assaulted R.D. **JODY RUFINO MARTINEZ** and J.M. were later heard saying they "should have just stuck him."

Overt Act 14

On or about October 24, 2018, **JODY RUFINO MARTINEZ** possessed a firearm and ammunition.

Overt Act 15

On or about October 24, 2018, **JODY RUFINO MARTINEZ** did unlawfully and knowingly shoot a rival, D.S.

Overt Act 16

Between October 24, 2018 and June 7, 2019, **JODY RUFINO MARTINEZ** did attempt to intimidate witness, L.L., by trying to persuade the witness not to cooperate with law enforcement about the shooting incident.

Overt Act 17

On or about January 7, 2019, S.B., **JODY RUFINO MARTINEZ's** girlfriend, retaliated against D.S. for cooperating with law enforcement following the shooting. S.B. provided paperwork to an inmate in the Rio Arriba County Detention Facility regarding D.S.'s cooperation, and D.S. was subsequently assaulted by inmates at the facility.

Overt Act 18

In October 2019, while incarcerated in the Santa Fe County Adult Detention Facility, **JODY RUFINO MARTINEZ**, placed a “green light” on D.S. and intended to have D.S. killed.

Overt Act 19

On or about December 12, 2019, while incarcerated in the Santa Fe County Adult Detention Facility, **JODY RUFINO MARTINEZ**, threatened physical force against J.L. with the intent to influence, delay, or prevent J.L. from testifying against **JODY RUFINO MARTINEZ** in an official proceeding.

Notice of Special Sentencing Factors as to Racketeering Conspiracy

On or about December 5, 2008, in the State of New Mexico, the defendant, **JODY RUFINO MARTINEZ**, did murder D.R., willfully, deliberately and with premeditation, and aided and abetted others to kill D.R., in violation of NMSA, Sections 30-2-1 and 30-1-13.

All in violation of 18 U.S.C. § 1962(d).

Count 3

Tampering With a Witness, Victim or Informant by Physical Force or Threat

On or about December 12, 2019, in Santa Fe County, in the District of New Mexico, the defendant, **JODY RUFINO MARTINEZ**, used and attempted to use physical force and the threat of physical force against J.L. with the intent to influence, delay, or prevent J.L. from testifying against **JODY RUFINO MARTINEZ** in an official proceeding.

All in violation of 18 U.S.C. § 1512(a)(2)(A).

Count 4

Felon in Possession of a Firearm and Ammunition

On or about October 24, 2018, in Santa Fe County, in the District of New Mexico, the

defendant, **JODY RUFINO MARTINEZ**, knowing that he had been convicted of at least one crime punishable by imprisonment for a term exceeding one year, specifically:

- 1) aggravated battery,
- 2) battery upon a peace officer,
- 3) attempt to commit a felony, to wit: second degree murder,
- 4) attempted robbery,
- 5) conspiracy to commit robbery,
- 6) possession of a firearm/destructive device by a felon, and
- 7) possession of a controlled substance,

knowingly possessed a firearm and ammunition in and affecting commerce.

In violation of 18 U.S.C. §§ 922(g)(1) and 924.

A TRUE BILL:

/s/
FOREPERSON OF THE GRAND JURY

C. C. Maehle
Assistant United States Attorney

RCW
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